

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IRMA LOPEZ, et al.,

Plaintiffs,

v.

Civil Action Number 2:13-cv-16036

BOSTON SCIENTIFIC CORPORATION,

Defendant.

MEMORANDUM OPINION AND ORDER

On December 2, 2020, the court entered an Order directing plaintiffs, through their counsel, to indicate by December 16, 2020 (1) whether they intend to terminate representation by all plaintiffs' counsel now listed on the docket (Ms. Anderson and Ms. Olson) in light of a pending motion to withdraw as counsel where counsel state that they were terminated; and (2) whether plaintiffs wish to proceed with this case or dismiss this case with or without prejudice and close it.

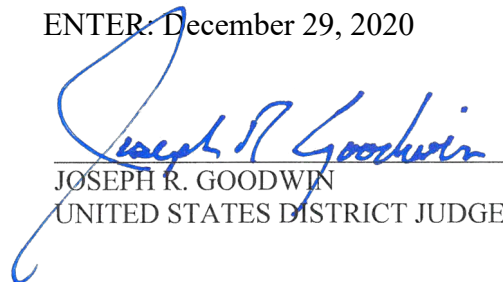
On December 16, 2020, plaintiffs, through counsel, stated that they wish to terminate representation by all plaintiffs' counsel. [ECF No. 43, Exhibit 1]. However, plaintiffs did not respond as to whether they wish to proceed with this case or dismiss it. While counsel provided the court's order to plaintiffs, it is unclear whether they understood the need to indicate whether they wished to proceed with the case. Counsel has since inquired again of plaintiffs regarding their intent to proceed with this matter. [ECF No. 43, p. 2]. These inquiries were very recent (December 13, 14 and 15, 2020) and as such, the court extended the time within which plaintiffs must respond to the second inquiry above to December 28, 2020. The court ordered that on or before **December 28, 2020** (1) counsel attempt again to obtain from plaintiffs, a statement about whether they wish to proceed with this case or dismiss this case with or without prejudice; and (2) if plaintiffs wish

to proceed with this lawsuit, plaintiffs must provide an accurate address to counsel where plaintiffs can receive filings in this case. The court warned that failure to comply with the Order would result in dismissal of this case.

Plaintiffs have not complied with the court's Order, despite additional attempts by plaintiffs' counsel to contact plaintiffs and obtain their response. [ECF Nos. 45, 46]. The court **ORDERS**, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and Rule 41.1 of the Local Rules of Civil Procedure and after weighing the factors identified in *Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989), that Boston Scientific Corporation is dismissed without prejudice. Remaining pending motions are **DENIED** as moot. No defendants remain, and the court **DIRECTS** the Clerk to dismiss the case and strike it from the active docket.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: December 29, 2020



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE